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SAMUEL AL-MAGRIBI'S KARAITE LAWS.

المقالة السادسة من الكتاب المسقى بالمرشد في جملة من الاحكام الشرعية
 التي تجرى في ما بين الناس بعضهم مع بعض *Die Civil-Gesetze
 der Karäer von Samuel al-Magrebi, nach einer Berliner Handschrift
 herausgegeben. Inaugural-Dissertation... von SAUL GITELSOHN.*
 Berlin, 1904, in 8vo. 27 + (1) pp. + 43 pp. (Text).

ONCE again we have before us a portion of Samuel al-Magribi's *al-Murschid* (on the two parts already published see my notices in this REVIEW, XVI, 405; XVII, 594), and once again only part of a section, namely, the first twenty-one chapters of section VI. The entire section contains fifty-one chapters, and treats, as its superscription states, of all those religious laws that concern human intercourse. But this section differs from those hitherto known in this respect, that the subject-matter is not limited to an isolated theme, but the author here bases himself on the section *Mishpätim* and explains the laws contained in it in order¹. Still, his results have not the appearance of a commentary but that of a code-book, so that in dealing with single precepts of this section he includes within the sphere of his inquiry the other pertinent passages in the Pentateuch. For example, in dealing with the laws about slaves, Exod. xxi. 2 seqq., he also mentions Lev. xxv. 39 seqq., which is particularly emphasized (p. 7, l. 4: **וַיַּעֲלֶם אִם אֶלְסַבּ בִּי דְכַרְנָא דְלָךְ הָאֶהְנָא הוּא . . . אֲנָא לֹא נִגְדַּ מוֹצֵעַ אֱלִיָּק מִן הוּא אֶלְפַּעַל נַצִּיף דְלָךְ אֱלִיָּה פִלְדִּלְךְ דְכַרְנָא**); beside the laws on murderers, Exod. xxi. 12-14, we also have Num. xxxv (pp. 14-15); beside the explanation of the law, Exod. xxi. 22, also that of Deut. xxv. 11 (p. 29); beside the discussion of Exod. xxi. 33 also that of Deut. xxii. 8 (p. 39, l. 5 from below: **וַיַּחְעֲלֵךְ בַּפֶּה הוּא אֶלְפַּעַל קו' תַּע' . . . כִּי תִכְנֶה בֵּית הָרֶשַׁ וְנֹג'**); the common factor in both laws is the prevention of damage arising from lack of precaution).—In this part also Samuel is conscious of his function as a compiler, for in adducing various calculations in assessing the price of the oxen, in connexion with the law of Exod. xxi. 35 b, he emphasizes

¹ As this section contains penal as well as civil laws, the editor has unjustly entitled his publication *Die Civil-Gesetze der Karäer*. Cf., e.g., cap. 3-6 on the laws contained in Exod. xxi. 12-17.

the synoptical lucidity of his presentment in contrast to previous authors (p. 42, l. 7: והוא אלביאן והוא אלתרתיב לא תכאר תנדה : לאחר מן אלעלמא עלי הוא אלוצוח ואן ונרת להם שי פי דלך תנדה לאך).—He often takes note of the opinion of the Talmudists, without mentioning them by name (see the references of the editor), only several times he calls them אלמכאלפין “heretics,” and occasionally employs sharp expressions, which is not his custom elsewhere (see especially p. 17, l. 7; p. 38, l. 6).—Of other peculiarities of the portion now edited, there must also be mentioned: some remarks of a linguistic import (p. 20, l. 14, המשפט in Deut. xxv. 1 instead of מקום המשפט, אל, just like the expression in Arabic, אתקדם אלי אלחכם; p. 32, l. 14; p. 34, l. 9, ננה has a frequentative significance, just like גנב in contrast to גונב; p. 39, l. 7, the difference between בור and באר; p. 40, l. 10, מעקה is derived from עיק “to narrow,” cf. Amos ii. [not xi.] 13) as well as a neo-Hebraic formation (נציין “strife,” from ינצו, p. 26, l. 19, and p. 29, l. 20)¹.

The present text has been edited by Herr Gittelsohn fairly correctly only according to the Berlin MS., but it contained many printer's errors, especially in regard to the diacritical points². In the notes the editor confines himself to what is absolutely necessary, and is at pains to secure a brevity that is praiseworthy. Still he ought to have gone somewhat more closely into the sources, especially where views not generally admitted are adduced. Thus, the view that Exod. xxi. 2 seqq. treats of a proselyte, as well as the classification of four kinds of slaves (p. 3, l. 3 from below), originated in Jefet b. Ali and is also found in the case of the Samaritan Ibrâhîm b. Ja'kûb (see *J. Q. R.*, XVI, 404; Aron b. Josef, who, in the Mibhar, quotes this view of Jefet, follows the Talmud, namely, that the question here is מכרוהו ב"ד). The division of the murderers into three classes (p. 14, l. 4 seqq.) is found in Aaron b. Elia (Gan Eden, fol. 176 d). The strange assertion that by מזבח in Exod. xxi. 4 are to be understood the altars at the gates of justice (p. 15, l. 6 from below: ויריד בולך אלמזבח: . . . אלוי פי אלשערים אלדי ינלסו ענדה אלחכאם כק' ועל בגדים חבלים

¹ In the Talmud נציין occurs as a substantive, e. g., *Megilla*, 24 b אבי רבי ונציין רבו.

² e. g., p. 4, l. 3 from below ועננה, read וענדה; p. 9, l. 5 קביחה, read קביחה; p. 11, l. 2 לממלך, read לממלך; p. 16, l. 12 קר, read קר; ib., l. 8 from below ואלוי, read ואלוי; p. 17, l. 7 במשל, read במשל; p. 19, l. 16 מסאמחה, read מסאמחה; p. 20, l. 9 מזכר, read מזכר; p. 27, l. 14 וליס, read וליס; p. 34, l. 7 from below כאלכלאם, read כאלכלאם; ib., l. ult. תורה, read תורה; p. 35, l. 11 דו, read דו, &c.

יטו אצל כל מזבח ולמחל הוא אלמרחב הרב יואב אלך), an assertion likewise found in Ibrâhim (cf. *J. Q. R.*, l. c.), was probably borrowed by Samuel from Hadassi (*Eshkol*, Alphab., 271, ב seqq., where the proof is also from Amos ii. 8). In the discussion on ולא יהיה אסון (cap. 9) reference should be made to the distinction between the Rabbinical and the Karaite conception (see *Kaufmann-Gedenkbuch*, p. 177), and on עין רחח עין (cap. 10), cf. *Monatsschrift*, XLI, 205.—On the notes may also be made the following remark: טאחר (p. 3, n. k, where the impossible spelling “ha-Dassy” is given) simply denotes “outer meaning” and forms the antithesis to באטן “inner meaning.”—The opinion that in אחותה אל ואשה (Lev. xviii. 10) bigamy is forbidden (p. 11, n. q) is not shared by *all* Karaites: see the various interpretations of this precept in my article on ‘Anân, *R. É. J.*, XLV, 185 seqq.

Herr Gitelsohn has also omitted to give a translation, in place whereof he provides a rather long introduction, which could, however, have been reduced to a minimum or even omitted for the most part. Apart from some useful observations on the Arabic vocalization and on the vulgarisms of the author (p. 17 seqq.), this introduction contains only views that have either long been known or that are erroneous. Strange as it is that even now Schahrastâni should be given as the source of our knowledge of Jewish sects (p. 5, n. 2), instead of reference being made to Kîrkisânî and Alberûni, it is just as remarkable to assert that Samuel al-Magribi interrupts the decline of the Arabic-Karaite literature which set in with Jeshûa b. Jehûda, and that he can be regarded as the last classical writer of this literature (p. 14), when, as a matter of fact, Samuel is only an ordinary compiler, and when, in this respect, even Jefet b. Şagîr, who lived in the thirteenth century, must be placed higher. This shows that Herr Gitelsohn has no proper idea of the development of the Karaite literature, and yet with enviable *naïveté* he passes general judgment upon it, thus, for example, that it is lacking in strict logic (p. 13). Just as naïve are the long-winded discussions about מעלם (pp. 8–10), which is also often written plene מעלים and which is simply = מעלם, i. e. teacher (Heb. מלמד; cf. also *J. Q. R.*, l. c., p. 408¹). Samuel's full name (see p. 8) was b. Mose b. Jeshûa (not Joshua) b. Mordechai b. Amram b. Salomo b. Amram (see my *Zur jüd.-arab. Litter.*, p. 77, also about a hitherto unknown Arabic work of Samuel, containing an account of Mount

¹ In the passage from Firkowitsch cited p. 10, l. 3, we should probably simply read: רבנו שמואל המערבי . . . הנקרא מעלים שמואל רבנו בספר הכיזוח. שני, unless Firkowitsch himself, who knew no Arabic, made a mistake.

Moriah and the Temple; on the other hand, the "Kitâb al-Ibbûr," invented by Herr Gitelsohn, on p. 12, on the basis of a misunderstood quotation from Pinsker, is simply the Hebrew translation of Division III of the *Murschid*, which has been edited by F. Kauffmann), and the title **הַמְּתַיֵב** (corresponding to the Arabic المتطیب), which he bore, is found not only among Karaites (p. 14, n. 2), but also among Arabic authors (see *Zur jüd.-arab. Litter.*, l. c.).

SAMUEL POZNAŃSKI.